

Exhibit 5

NORTH CAROLINA GENERAL ASSEMBLY
SENATE REDISTRICTING AND ELECTIONS COMMITTEES

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1 redistricting.

2 The categories of equal population,
3 traditional redistricting principles,
4 compactness, contiguity, respect for existing
5 political subdivisions, political considerations
6 and incumbent residence should not be foreign
7 concepts to members of this committee.

8 The major difference between these two
9 documents is the use of the county grouping
10 formula related to legislative maps as required
11 by our constitution and as contained in the
12 Stephenson decision.

13 I will note -- it is important to note
14 that the chairs did not use racial data when
15 drawing the legislative and congressional maps.
16 Let me explain why.

17 The predominant use of race to draw
18 districts violates the US Constitution unless
19 doing so serves a compelling government
20 interest. In other words, if the legislature
21 draws districts predominantly based upon race
22 without a compelling interest, those districts
23 would be declared illegal racial gerrymanders.
24 We know this from the Cooper and Covington
25 cases.

1 As for the Voting Rights Act, in order
2 for the predominant use of race to be justified
3 under Section 2, there must be a strong basis in
4 evidence of three Gingles conditions. Even
5 assuming the presence of the three Gingles
6 conditions, the use of race to draw districts
7 must also be supported by the totality of the
8 circumstances.

9 Past decisions and court records
10 demonstrate that to this point nowhere in
11 North Carolina can anyone provide evidence of
12 the three Gingles preconditions. In the absence
13 of any evidence of the three Gingles
14 preconditions, the chairs elected not to use
15 race in drawing these proposed districts
16 strictly to protect the state from lawsuits
17 alleging illegal racial gerrymandering.

18 To be clear, the chairs do not believe
19 that the use of racial data would have been
20 helpful in reaching any political or other
21 legislative redistricting goal. Any political
22 considerations in line drawing have been
23 informed by political data, not racial data.

24 That said, now that the maps under
25 consideration have been filed and made public,

1 the chairs will now formally direct central
2 staff to load racial data into the Maptitude
3 software following this committee meeting and
4 apply that data layer to the proposed
5 congressional and senate maps. We ask the
6 central staff apply that racial data, update the
7 stat packs accordingly, and make that
8 information publicly available on the General
9 Assembly website as soon as possible.

10 To emphasize once again, the chairs did
11 not use racial data and statistics at any point
12 in the construction of these districts, and the
13 publication of racial statistics here does not
14 inform the placement of any residents within any
15 districts within these maps.

16 Finally, as mentioned earlier, the
17 committee will meet next week, on Monday, and
18 amendments to these bills will be considered at
19 this meeting. I do believe that meeting will be
20 at 10:00 a.m. on Monday, but notices will come
21 out.

22 The chairs at that time will consider
23 any evidence that a member of this committee or
24 a third party advocating altering plans for
25 racial reasons brings forth that provides a

1 strong basis in evidence that the Gingles
2 preconditions are present in a particular area
3 of the state. Only then will the chairs
4 consider using race in amending the districts to
5 protect the state from liability under Section 2
6 of the Voting Rights Act.

7 Are there any questions?

8 Senator Blue.

9 SENATOR BLUE: Thank you, Mr. Chairman.
10 I -- especially in the explanations of the last
11 areas that you dipped into, I was reading the
12 Allen versus Milligan case, the Alabama case
13 that sort of breathed a new life into Section 2
14 challenges to redistricting plans. And it
15 points out pretty specifically that -- and I'll
16 quote generally and then I'll ask you a
17 question.

18 It says, "When it comes to considering
19 race in the context of districting, we have made
20 clear that there is a difference between being
21 aware of racial considerations and being
22 motivated by them."

23 Section 2 itself -- this is a
24 continuation of a quote.

25 "Section 2 itself demands consideration

1 heard you just say is you haven't done a racial
2 polarization study in -- to help draw these
3 maps.

4 SENATOR HISE: Studies regarding racial
5 polarization were done as part of the lawsuit a
6 year and a half ago since this data has
7 been -- since the census data has been released.

8 SENATOR MARCUS: Okay. And then I
9 guess just one follow-up. So we're to take you
10 at your word. You said a couple times here that
11 you've not used racial data to draw these maps
12 and that you're only now adding it to the state
13 system for the public to see the racial
14 implications of the map. And I'm curious if
15 we're to just take you at your word for that or
16 if you will be making your redistricting records
17 publicly available so we know what racial data
18 was used or not used in drawing these maps.

19 SENATOR HISE: I will confirm that the
20 chairs have not used racial data. You can
21 confirm yourself with central staff. It is not
22 part of the software system. The data has never
23 been uploaded to -- including the computer that
24 was provided to the Democrats in 605. Racial
25 data has not been added up to any of the systems

1 discussion only.

2 Whenever you're ready, Senator Daniels,
3 you're recognized to explain the bill.

4 SENATOR DANIEL: Thank you, Senator
5 Hise.

6 Members, and so I'm going to go through
7 the districts like Senator Hise has been doing
8 with the other maps, so this could take some
9 time. I'm not going to try to describe the
10 color schemes Senator Hise did. You'll have to
11 kind of figure that out.

12 Senate District 1 is created by the
13 county grouping choice in northeastern
14 North Carolina. The chairs chose the
15 configuration that makes Senate District 1 out
16 of the following whole counties: Northampton,
17 Bertie, Hertford, Gates, Perquimans, Pasquotank,
18 Camden, Currituck, Tyrrell and Dare. This
19 configuration leaves four of the five finger
20 counties in northeastern North Carolina in one
21 district.

22 Many of the residents of these counties
23 work or travel frequently to the Virginia
24 Tidewater area. Seven of the ten counties and
25 81 percent of the population in

1 Senate District 1 are in the Norfolk media
2 market: Dare, Currituck, Camden, Pasquotank,
3 Perquimans, Hertford and Gates, with the other
4 three divided between Greenville market, Tyrrell
5 and Bertie and Raleigh, Northampton containing
6 19 percent of the district's population.

7 All of the counties in North Carolina
8 that are in the Norfolk media market are in
9 Senate District 1 except for Chowan. The
10 incumbent in Senate District 1 is Senator Hanig
11 from Currituck.

12 Senate District 2 follows the Roanoke
13 River from Warren county to the Albemarle Sound
14 in Washington county. Chowan county, directly
15 across the Albemarle Sound from Washington
16 county, is also grouped into this district.
17 Hyde County, also on the sound, is in this
18 district as in -- as is Pamlico county along
19 with the Pamlico River and Pamlico Sound.

20 Finally, Carteret county spanning the
21 inner and Outer Banks as the southernmost county
22 in the district.

23 Five of the eight counties in the
24 district are in the Greenville media market,
25 with the other three being split between the

1 Raleigh media market, that would be Warren and
2 Halifax, and Norfolk media market, Chowan.

3 Two-thirds of the population of this district
4 live in the Greenville media market.

5 The incumbent in Senate District 2 is
6 Senator Sanderson from Pamlico.

7 Senate District 3 is unchanged from the
8 previous map but renumbered. It is created by
9 the base county grouping map: Lenoir, Craven
10 and Beaufort counties.

11 The incumbent in Senate District 3 is
12 Senator Perry from Lenoir.

13 And if I could get the
14 sergeant-at--arms to -- I don't have a paper
15 copy of the map, if someone could bring me one.

16 Senate District 4 is unchanged from the
17 previous map and is created by the base county
18 grouping map, Wayne, Wilson in Greene counties.
19 This incumbent in Senate District 4 is Senator
20 Buck Newton from Wilson county.

21 Senate District 5 is unchanged from the
22 previous map and created by the base county
23 grouping map, Edgecombe and Pitt counties. The
24 incumbent in Senate District 5 is Senator Smith
25 from Pitt county.

1 are whole in Senate District 9. Sampson county
2 is split between the two districts. One
3 precinct Plain View was moved from Senate
4 District 9 to 12, leaving the rest of Sampson
5 county in Senate District 9. The incumbent in
6 Senate District 9 is Senator Jackson from
7 Sampson county.

8 Senate District 10 is unchanged from
9 the previous map and is created by the base
10 county grouping map Johnston county. The
11 incumbent is Senator Sawrey from Johnston.

12 Senate District 11 is unchanged from
13 the previous map and is created by the base
14 county grouping map, Vance, Franklin and Nash
15 counties. The incumbent in Senate District 11
16 is Senator Barnes from Nash county.

17 Senate District 12 is made up of Lee
18 and Harnett counties, plus the Plain View
19 precinct in Sampson as described previously.
20 The incumbent in Senate District 12 is
21 Senator Burgin from Harnett county.

22 Senate District 13, Wake and Granville
23 counties form a sixth district, two-county
24 grouping in the base senate map. The overall
25 population within the county grouping is